

such action may be taken without adversely affecting the national security, the maintenance of friendly relations with other nations, the efficient operation of the Agency, or the administrative feasibility of servicing requests for access to such records.

(b) Access for research purposes to the classified foreign policy records in the Agency's custody will be governed by the regulations of the Department of State with respect thereto, as set forth in part 6, chapter II of title II of the Code of Federal Regulations. Application for such access may be made to the Chief, Customer Outreach and Oversight Staff, at the address listed in §212.33(a) of this part. That officer, or his/her designee, in consultation with the Director, Historical Office, Department of State, or his/her designee, will determine the action to be taken and will so advise the researcher.

PART 213—COLLECTION OF CLAIMS

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AUTHORITY: Sec. 621 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2381; subpart B also issued under 5 U.S.C. 5514; 5 CFR 550, subpart K. Subpart C also issued under 31 U.S.C. 3720A.

Subpart A—General Provisions

SOURCE: 50 FR 38521, Sept. 23, 1985, unless otherwise noted.

§213.1 Purpose.

These regulations prescribe the procedures to be used by the Agency for International Development (“AID”) in the collection of claims owed to AID and to the United States.

§213.2 Scope.

(a) *Applicability of Federal Claims Collection Standards.* Except as set forth in this part or otherwise provided by law, AID will conduct administrative actions to collect claims (including offset, compromise, suspension, termination, disclosure and referral) in accordance with the Federal Claim Collection Standards (“FCCS”) of the General Accounting Office and Department of Justice, 4 CFR parts 101–105.

(b) This part is not applicable to:

(1) Claims arising out of loans for which compromise and collection authority is conferred by section 635(g)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2395(g)(2).

(2) Claims arising from investment guaranty operations for which settlement and arbitration authority is conferred by section 635(i) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2395(i).

(3) Claims against any foreign country or any political subdivision thereof, or any public international organization.

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(4) Claims where the A.I.D. Administrator or his designee determines that the achievement of the purposes of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*, or any other provision of law administered by A.I.D. require a different course of action.

§213.3 Subdivision of claims.

A debtor's liability arising from a particular contract or transaction (for example, each individual Supplier's Certificate and Agreement, Form AID 282) shall be considered a single claim for purposes of the monetary ceilings of the FCCS.

§213.4 Late payment, penalty and administrative charges.

(a) Except as otherwise provided by statute, loan agreement or contract, A.I.D. will assess:

(1) *Late payment charges* (interest) on unpaid claims at the higher of the Treasury tax and loan account rate or the prompt payment interest rate established under section 12 of the Contract Disputes Act of 1978.

(2) *Penalty charges* at 6 percent a year on any portion of a claim that is delinquent for more than 90 days.

(3) *Administrative charges* to cover the costs of processing and calculating delinquent claims.

(b) Late payment charges shall be computed from the date of *mailing* or *hand delivery* of the notice of the claim and interest requirements.

(c) *Waiver.* (1) Late payment charges are waived on any claim or any portion of a claim which is paid within 30 days after the date on which late payment charges begin to accrue.

(2) The 30 day period may be extended on a case-by-case basis if it is determined that an extension is appropriate.

(3) AID may waive late payment, penalty and administrative charges under the FCCS criteria for the compromise of claims (41 CFR part 103) or upon a determination that collection of the charges would be against equity and good conscience or not in the best interests of the United States, including for example:

(i) Pending consideration of a request for reconsideration, administrative re-

view or waiver under a permissive statute,

(ii) If repayment of the full amount of the debt is made after the date upon which interest and other charges become payable and the estimated costs of recovering the residual balance exceed the amount owed, or

(iii) If collection of interest or other charges would jeopardize collection of the principal of the claim.

§213.5 Demand for payment.

(a) A total of three progressively stronger written demands at approximately 30-day intervals will normally be made, unless a response or other information indicates that additional written demands would either be unnecessary or futile. When necessary to protect the Government's interest, written demand may be preceded by other appropriate actions under the Federal Claims Collection Standards, including immediate referral for litigation and/or offset.

(b) The initial written demand for payment (usually a Bill for Collection, Form AID 7-129) shall inform the debtor of:

(1) The basis for the claim;

(2) The amount of the claim;

(3) The date when payment is due 30 days from date of mailing or hand delivery of the initial demand for payment;

(4) The provision for late payment (interest), penalty and administrative charges, if payment is not received by the due date.

§213.6 Collection by offset.

(a) Collection by administrative offset will be undertaken only on claims which are liquidated or certain in amount. Offset will be used whenever feasible and not otherwise prohibited. Offset is not required to be used in every instance and consideration should be given to the debtor's financial condition and the impact of offset on Agency programs or projects.

(b) The procedures for offset in this section do not apply to the offset of Federal salaries under 5 U.S.C. 5514 or offset under section 640A of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2399.